



ARIZONA STATE BOARD OF PHYSICAL THERAPY
 4205 NORTH 7TH AVENUE, SUITE 208 PHOENIX, ARIZONA 85013
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 www.ptboard.az.gov

REGULAR SESSION MEETING MINUTES
November 15, 2016

MEMBERS PRESENT:

James E. Miller, PT, DPT, Vice President
 Al D’Appollonio, PT, MBA; Secretary
 Michael S. Clinton, CPA; Member,
 Melinda Richardson, PT, MA; President
 Whitney Lawrence; Member

MEMBERS ABSENT:

Nushka Remec, PT, MS, PCS; Member
 Peggy Hunter, PTA, CLT; Member

**ASSISTANT ATTORNEY GENERAL
 PRESENT:**

Mona Baskin, Assistant Attorney General

BOARD STAFF PRESENT IN PERSON:

Charles D. Brown, Executive Director
 Monica Crowley, Office Manager
 Veronica Cardoza, Licensing Administrator
 Karen Donahue, Senior Investigator

- 1) **CALL TO ORDER – 8:30 A.M.;** Ms. Richardson called the meeting to order at 8:34 A.M. (A recording of the meeting is available through the Board Office)

Roll Call - The following Board members were present: Ms. Richardson, Mr. D’Appollonio, Mr. Clinton and Dr. Miller

2) **Review and Approval of Draft Minutes**

- a) October 25, 2016; Regular Session Meeting Minutes

Dr. Miller requested minor changes to the minutes. Ms. Richardson moved the Board to approve the October 25, 2016; Regular Session Meeting Minutes with the suggested changes. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	
Nay							
Recused							

Abstained							
Absent			X		X		X

3) CONSENT AGENDA: REVIEW, CONSIDERATION and ACTION

a) Applications for Licensure and Certification

i) Review, Consideration and Approval of Applications of Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript

Liam Arbuckle	Laura Blaylock	Melissa Buckentine
Gabriel DeFaria	Melissa DiTaranto	Zachery Eustance
Elise Harris	Laurie Hettinga	Rachel Holt
Elizabeth Kiger	Amanda Koval	Kathryn Lohrman
Coby Madsen	Michael May II	Lynn Meyer
Tricia Meyer	Holly Taylor	Tiffany Touton
Alaina Vince	Michael Walter	John Waltz
Marie Armstrong		

Dr. Miller pulled Rachel Holt and Ms. Richardson pulled Holly Taylor Sadler from the above consent agenda.

Ms. Richardson moved the Board approve the above applications for Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	
Nay							
Recused							
Abstained							
Absent			X		X		X

Holly Taylor

Ms. Richardson pulled Holly Taylor from the agenda for a missing Montana license verification. The Board reviewed and discussed the case. The Montana verification was in the file and it just did not get scanned into the Board members’ files. Montana verification stated Ms. Taylor was in good standing.

Ms. Richardson moved the Board approve Ms. Taylor’s application for Physical Therapist Licensure upon Receipt of Passing Scores on the NPTE/AZLAW. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed ~~by roll call.~~

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	
Nay							
Recused							
Abstained							
Absent			X		X		X

Rachel Holt

Dr. Miller pulled Ms. Holg’s case because he believed Ms. Holt’s request for application for testing was premature, since her graduation date is April 2017. The Board reviewed and discussed the case.

Dr. Miller moved the Board table Ms. Holt’s application for further clarification.

- ii) Review, Consideration and Approval of Applications for Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript.

Aliesha Bell	John Emmerich III	Bryan Estrada
Brenda Gilbert	Nicholas Ksobiech	Lynsey Lyle
Cassie Martinez	Jessica Nava	Jennifer Schafer
Heather Shirley	Karen Williamsen	

Ms. Clinton pulled Aliesha Bell and Ms. Richardson pulled Heather Shirley from the above consent agenda.

Ms. Richardson moved the Board approve the above applications for Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	
Nay							
Recused							
Abstained							

Absent			X		X		X
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Aliesha Bell

Mr. Clinton’s concern regarding Ms. Bell’s application was she did not list any –work history on her application. The Board reviewed and discussed the case.

Mr. Clinton moved the Board approve Ms. Bell’s application for Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Ms. Richardson seconded the motion. Following review and discussion the motion passed.

Ms. Whitney Lawrence join the Board table at 8:44 A.M.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	
Nay							
Recused							
Abstained							X
Absent			X		X		

Heather Shirley

Ms. Richardson needed clarification on the passing of the FSPBT exam for Ms. Shirley. The Board reviewed and discussed the case.

Ms. Richardson moved the Board approve Ms. Shirley’s application for Physical Therapist Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

4) CONSENT AGENDA: Review, Consideration and Action on Applications for Licensure and Certification

- a) Review, Consideration and Approval of Applications for Physical Therapy Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript and with documentation Related to Disclosure on “Personal Information” section of the application
 - (1) Sterling Hester

Ms. Richardson moved the Board approve the above application for Physical Therapy Assistant Certification upon Receipt of Passing Scores on the NPTE/AZLAW and Final Transcript. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

Consent Agendas End

5) Review, Consideration and Action on Applications for Licensure and Certification

- a) Review of and Possible Action on Application for Physical Therapist Licensure from Applicant Requesting ADA Accommodations.
 - 1) Avery Cooper

Ms. Richardson moved the Board approve the above application for ADA Accommodations. Mr. Clinton seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

- a) Review of and Possible Action on Application for Physical Therapy Assistant Certification from Applicant Requesting ADA Accommodations
 2) Ellen Fenton

Dr. Miller moved the Board approve the above application for ADA Accommodations. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

- b) Review of and Possible Action on the Following Applications for Physical Therapist Licensure – Military Spouse.
 1) Ashley Cunningham

Dr. Miller moved the Board approve the above application for Physical Therapist Licensure –Military Spouse. Ms. Richardson seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

- c) Review of and Possible Action on Physical Therapists Previously Licensed in the State of Arizona.
 1) Laurie Haggerty

Ms. Richardson moved the Board approve the above application for Physical Therapist Licensure. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X

Nay							
Recused							
Abstained							
Absent			X		X		

2) Andrea Lerner

Ms. Richardson moved the Board approve the above application for Physical Therapist Licensure upon Board Staff review of completed 60 hours of CEU’s. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

6) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

c) Review, Discussion, and Action on Board Order

- i) Request for Reduction in Monitoring
 - (1) Case #15-14; Lori Francouer, PT

Mona Baskin, Assistant Attorney General recused herself from this case and left the Board table. The Board reviewed and discussed the case. The Board pended the case to later in the meeting to review additional documentation.

At 8:58 A.M. Mona Baskin, Assistant Attorney General returned to the Board table.

- a) Review and Action; Informal Hearing;
 - i) Case No. 16-17; Edward Lihvarchik, PT

Mr. Lihvarchik was present and was represented by Mr. Gary Blume. The Board members and Board staff introduced themselves. Both Mr. Lihvarchik and Mr. Blume introduced themselves. Ms. Richardson read a summary of how the hearing would be conducted and reviewed the possible outcomes of the hearing. Ms. Donahue and Mr. Lihvarchik were sworn-in as witnesses. Mr. Brown read the allegations against Mr. Lihvarchik:

A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.

1. The investigator is unable to determine when Patient ML Mr. Lopez's Achilles tendon rupture may have occurred due to the following reasons:
 - a. Patient ML Mr. Lopez reports a fall that occurred on February 28, 2016. Mr. Lihvarchik does not provide assessment or treatment until March 3, 2016.
 - b. Patient ML Mr. Lopez self- reports activities that include climbing a ladder, hiking and bicycle riding prior to MRI confirmation of Achilles rupture.
 - c. Mr. Lihvarchik does not document in the patient record the integrity of the Achilles tendon by palpation, function, special testing or strength testing.

2. Mr. Lihvarchik did not performed the minimum requirement of objective tests or measures to determine a DX and integrity of the Achilles tendon on:
 - a. December 31, 2015 Initial Evaluation
 - b. February 5, 2016 Re-evaluation
 - c. March 3, 2016 Re-evaluation

3. Mr. Lihvarchik response are in conflict with the patient record in the following areas:
 - a. Initial evaluation and Mr. Lihvarchik's response indicates that the right ankle instead of the left ankle was injured.
 - b. Mr. Lihvarchik's response states "At the time of his initial visit ML Mr. Lopez was wearing a walking boot and was 50% weight bearing." This statement would be in conflict with the initial evaluation:
 - i. PT states he just got out of his boot and is for very basic general physical therapy.
 - ii. He states his ROM is mildly limited, slight increased pain noted, mild walking deficits.
 - iii. Gait: Mild limitations: decreased push off of L LE at terminal stance, decrease shifting onto L LE at stance phase of gait.
 - c. Instructions provided to Patient ML Mr. Lopez as indicated in Mr. Lihvarchik's response "Patient ML Mr. Lopez was instructed at every visit not to stress his left Achilles tendon area in any way possible for several months to protect and respect the surgical repair." may be in conflict to Mr. Lihvarchik's documentation and treatment:
 - i. Second visit, January 5, 2016 Mr. Lihvarchik provides instruction and Patient ML Mr. Lopez performs:
 1. Single leg balance 30 sec on/30 sec off
 2. L-Spine Step over 3 min each way
 - ii. Fourth visit, January 14:, 2016 Mr. Lihvarchik provides instruction and Patient ML Mr. Lopez performs:
 1. lateral walking with mini squat.
 2. Increase bike resistance to level 3 from level 1
 - iii. Fifth visit, January 22, 2016 Mr. Lihvarchik provides instruction and Patient ML Mr. Lopez performs:

1. Lunges
 2. Wall squats with yellow ball
 - iv. March 4, 2016 Mr. Lihvarchik documents that he instructed Patient ML~~Mr. Lopez~~:
 1. “I discussed with patient that he needs to decrease some of his exercise in order to let his ankle heal more- take it slower.”
 - d. Mr. Lihvarchik’s response states “He was progressing quickly functionally and had very few symptoms in his left Achilles tendon.” Documentation in the patient record may not have documented functional ability or pain rankings for most dates of service.”
4. Mr. Lihvarchik’s provides instruction for hip strengthening for the following dates of service when evaluation of hip strength is not documented in the patient record:
- a. 1/14/16
 - b. 1/22/16
 - c. 2/5/16
 - d. 2/18/16

B) Failed to adhere to the recognized standards of ethics of the physical therapy profession.”

- **4.1(G) When a patient has been referred from another practitioner, the physical therapist shall communicate pertinent findings and/or information to the referring practitioner.**
1. Patient record does not indicate that the initial evaluation was sent to the physician.
 2. Patient record does indicate that a fax transmittal of the February 5, 2018 progress report was sent to the physician.
 3. The patient record does indicate that a documented dated February 18, 2016 was faxed on March 3, 2016 to the physician.
 - a. There is a typed documented dated 3/4/16 in which the documents states “2/18/16 daily note should be for 3/3/16. This should be corrected.”
 - b. The patient record for the second noted dated 2/18/16 is not properly addendum to indicate a change in DOS.
 4. A Discharge Summary is not documented in the patient record.

C) Charged unreasonable or fraudulent fees for services performed or not performed.

1. For the following DOS:
 - a. 12/31/16
 - b. 1/5/16
 - c. 1/14/16
 - d. 1/22/16
 - e. 2/5/16
 - f. 3/3/16
 - g. 3/4/16

D) Failed to maintain adequate patient records. For the purposes of this paragraph, adequate patient records means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

1. Per DOS indicated in the Investigative report

Mr. Blume provided an oral statement and presented the Board— with additional financial and patient documents for the Board to review and consider.

The Board reviewed and discussed the case. The Board asked questions of Mr. Lihvarchik. Patient ML arrived late at approximately —9:20 A.M. and submitted a speaker slip requesting to provide an oral statement and answer any question the Board had for him. Patient ML provided an oral statement to the Board and the Board asked questions of him. The Board asked additional question of Mr. Lihvarchik. No closing statement were provided by either Mr. Lihvarchik or Mr. Blume.

The Board deliberated. Ms. Richardson guided the Board through each allegation for discussion. Following discussion on the allegations Dr. Miller moved the Board adopt the following findings of fact:

1. A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.

1. The investigator is unable to determine when Patient ML Mr. Lopez's Achilles tendon rupture may have occurred due to the following reasons:

- a. Patient ML Mr. Lopez reports a fall that occurred on February 28, 2016. Mr. Lihvarchik does not provide assessment or treatment until March 3, 2016.
- b. Patient ML Mr. Lopez self- reports activities that include climbing a ladder, hiking and bicycle riding prior to MRI confirmation of Achilles rupture.
- c. Mr. Lihvarchik does not document in the patient record the integrity of the Achilles tendon by palpation, function, special testing or strength testing.

2. Mr. Lihvarchik did not performed the minimum requirement of objective tests or measures to determine a DX and integrity of the Achilles tendon on:

- a. December 31, 2015 Initial Evaluation
- b. February 5, 2016 Re-evaluation
- c. March 3, 2016 Re-evaluation

4. Mr. Lihvarchik's provides instruction for hip strengthening for the following dates of service when evaluation of hip strength is not documented in the patient record:

- a. 1/14/16
- b. 1/22/16
- c. 2/5/16
- d. 2/18/16

D) Failed to maintain adequate patient records. For the purposes of this paragraph, adequate patient records means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.

1. Per DOS indicated in the Investigative report

Ms. Richardson seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

Ms. Richardson moved the Board adopt the following Conclusions of Law:

A.R.S. §32-2044(1): “Violating this chapter, Board rules or a written board order.”

A.R.S. §32-2044(4): “Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”

A.R.S. §32-2044(20): “Failing to maintain adequate patient records. For the purposes of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.”

Dr. Miller seconded the motion. Following review and discussion the motion passed-

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

The Board discussed possible disciplinary action against Mr. Lihvarchik license. Following discussion Dr. Miller moved the Board adopt the following Order:

Mr. Lihvarchik be placed on probation for twelve months with the possibility for early termination.

Mr. Lihvarchik shall complete six hours of continuing education in documentation and six hours in orthopedic evaluation and clinical reasoning. All continuing education must be preapproved by Board staff and completed within 90 days. CEU's will not count towards renewal and cannot be completed online.

Following completion of the continuing education course Mr. Lihvarchik must undergo a minimum of six (6) months of Board approved monitoring with possibility for early termination after three (3) months of successful completion of monitoring with an option for the Board to extend if not successfully completed. Monitoring shall consist of 5 randomly selected charts.

Ms. Richardson seconded the motion. Following review and discussion the motion passed by roll call vote.

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X			X		X	X
Nay		X					
Recused							
Abstained							
Absent			X		X		

The Board Recessed from 11:23 A.M. to 11:35 A.M

ii) Case No. 16-22; Chad Reilly, PT

Mr. Reilly was present and was represented by Mr. Robert Shelly. The Board members and Board staff introduced themselves. Both Mr. Reilly and Mr. Shelly introduced themselves. Ms. Richardson read a summary of how the hearing would be conducted and reviewed the possible outcomes of the hearing. Ms. Donahue and Mr. Reilly were sworn. Mr. Brown read the allegations against Mr. Reilly:

1. A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”

1. Initial evaluation failed to document appropriate tests and measurements which would have enabled Mr. Reilly to determine the source of the symptoms and make an appropriate diagnosis.
 - a. Specific strength measurements were not recorded.
 - i. “LLE 2/5 grossly, 3+/5 rest of body”

- b. Lumbar evaluation was not documented
 - c. AROM was only documented for the hip. PROM was not documented.
 - d. Gait was not specifically addressed
 - i. “slow and antalgic with FWW”
 - e. Neurological testing was not documented as performed.
2. Documentation on each date of service may not enable another physical therapist to assume the patient’s care at any point in the course of therapeutic intervention.
3. Date of Service May 10, 2016
- a. Exercise flow sheet indicates that patient was performing FM rows, which may be an UE exercise in which the UE or the fractured rib, as reported in the initial evaluation, was not assessed.
 - b. Performance of single leg press with DX of hip fracture, who is WBAT with documented strength of 2/5 may not be appropriate
4. Re-evaluation dated May 12, 2016 may be incomplete.
- a. Failed to identify
 - i. Patients report of current status
 - ii. Patients response to therapeutic intervention
 - iii. Assessment of the patient’s progress
 - iv. Current functional level
 - v. Rational for continuing therapeutic intervention
5. May 20, 2016
- a. Documentation indicates 9/10 pain
 - i. Documentation does not indicate that Mr. Reilly assessed the change in patient status or made modifications to the plan of care or treatment intervention.

B) Failed to adhere to the recognized standards of Ethics of the physical therapy profession.

1. In regards to Patient Ms. Campbell’s allegations that Mr. Reilly engage in unprofessional conduct when she reported being released from physical therapy, Mr. Reilly’s states in his response:
 - a. I feel everything I said was professional and accurate, but combined with what is for me sometimes a loud voice, my telling her what she perhaps did not want to hear, my frustration was likely perceived as angry and I regret any misunderstanding and discomfort this might have caused.
 - b. I absolutely did not tell Patient Ms. C Ms. Campbell that she should not listen to her doctor.
 - c. I feel that my intentions were good, my treatment was good, as was the information I was trying to elicit and impart.
 - d. However, I regret for the tone in which it was perceived.

C) Charged unreasonable or fraudulent fees for services performed or not performed

- 1 Documentation may not support the charges/billing on the following dates of service:
 - a. 4/21/16
 - b. 4/25/16
 - c. 4/27/16
 - d. 4/29/16
 - e. 5/2/16
 - f. 5/4/16
 - g. 5/10/16
 - h. 5/12/16
 - i. 5/18/16
 - j. 5/20/16
 - k. 5/27/16
 - l. 6/1/16
 - m. 6/3/16
 - n. 6/8/16
 - o. 6/13/16
 - p. 6/15/16

D) Made misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.

- 1 Mr. Reilly may have made misleading and deceptive statements regarding Patient Ms. C Ms. Campbell's current status when communicating with the physician for the discharge summary on July 1, 2016 when he stated:
 - a. "She is still at considerable risk for falls, both balance and bilateral LE strength being considerably impaired."
 - i. Ms. Campbell's current status was not documented.
 - ii. Mr. Reilly had not documented assessment of strength or balance since May 12, 2016.

E) Failed to maintain adequate patient records. For the purposes of this paragraph, "adequate patient records" means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient."

- 1 As identified on each date of service in the Investigative Report.
- 2 Overall, documentation on each DOS may have failed to identify:
 - a. The patient's subjective report of current status
 - b. Patient's response to therapeutic intervention
 - c. Assessment of the patient's progress toward goals

- 3 Re-evaluation dated May 12, 2016
 - a. The documentation may have failed to identify the following:
 - i. The patient's report of current status
 - ii. The patient's response to therapeutic intervention
 - iii. Assessment of the patient's progress
 - iv. The patient's current functional status
 - v. Sufficient objective data from tests or measurements
 - vi. Rationale for continuing therapeutic intervention
 - vii. Any change to the plan of care

- 4 Discharge on July 1, 2016
 - a. The documentation may have failed to identify the following:
 - i. Inclusive dates for the episode of care being terminated
 - ii. The total number of days on which the therapeutic intervention was provided during the episode of care.
 - iii. The patient's current functional status
 - iv. The patient's progress toward achieving goals in the plan of care
 - v. The recommended discharge plan.

Mr. Shelly provided an oral statement. Mr. Shelly stated that Mr. Reilly was willing to accept a consent agreement. The Board reviewed and discussed the case. The Board asked questions of Mr. Reilly. Mr. Shelly provided a closing statement.

The Board deliberated. Ms. Richardson guided the Board through each allegation for discussion. Following discussion on the allegations Ms. Richardson moved the Board adopt the following findings of fact:

1. **A) Engaged in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”**

6. Initial evaluation failed to document appropriate tests and measurements which would have enabled Mr. Reilly to determine the source of the symptoms and make an appropriate diagnosis.
 - a. Specific strength measurements were not recorded.
 - i. “LLE 2/5 grossly, 3+/5 rest of body”
 - b. Lumbar evaluation was not documented
 - c. AROM was only documented for the hip. PROM was not documented.
 - d. Gait was not specifically addressed
 - i. “slow and antalgic with FWW”
 - e. Neurological testing was not documented as performed.

7. Documentation on each date of service may not enable another physical therapist to assume the patient's care at any point in the course of therapeutic intervention.

8. Date of Service May 10, 2016
 - a. Exercise flow sheet indicates that patient was performing FM rows, which may be an UE exercise in which the UE or the fractured rib, as reported in the initial evaluation, was not assessed.
 - b. Performance of single leg press with DX of hip fracture, who is WBAT with documented strength of 2/5 may not be appropriate
9. Re-evaluation dated May 12, 2016 may be incomplete.
 - a. Failed to identify
 - i. Patients report of current status
 - ii. Patients response to therapeutic intervention
 - iii. Assessment of the patient's progress
 - iv. Current functional level
 - v. Rationale for continuing therapeutic intervention
10. May 20, 2016
 - a. Documentation indicates 9/10 pain
 - i. Documentation does not indicate that Mr. Reilly assessed the change in patient status or made modifications to the plan of care or treatment intervention.

D) Made misleading, deceptive, untrue or fraudulent representations in violation of this chapter or in the practice of the profession.

- 2 Mr. Reilly may have made misleading and deceptive statements regarding ~~Patient Ms. C Ms. Campbell's~~ current status when communicating with the physician for the discharge summary on July 1, 2016 when he stated:
 - a. "She is still at considerable risk for falls, both balance and bilateral LE strength being considerably impaired."
 - i. ~~Patient Ms. C Ms. Campbell's~~ current status was not documented.
 - ii. Mr. Reilly had not documented assessment of strength or balance since May 12, 2016.

E) Failed to maintain adequate patient records. For the purposes of this paragraph, "adequate patient records" means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient."

- 5 As identified on each date of service in the Investigative Report.
- 6 Overall, documentation on each DOS may have failed to identify:
 - a. The patient's subjective report of current status
 - b. Patient's response to therapeutic intervention
 - c. Assessment of the patient's progress toward goals

7 Re-evaluation dated May 12, 2016

- a. The documentation may have failed to identify the following:
 - i. The patient’s report of current status
 - ii. The patient’s response to therapeutic intervention
 - iii. Assessment of the patient’s progress
 - iv. The patient’s current functional status
 - v. Sufficient objective data from tests or measurements
 - vi. Rationale for continuing therapeutic intervention
 - vii. Any change to the plan of care

8 Discharge on July 1, 2016

- a. The documentation may have failed to identify the following:
 - i. Inclusive dates for the episode of care being terminated
 - ii. The total number of days on which the therapeutic intervention was provided during the episode of care.
 - iii. The patient’s current functional status
 - iv. The patient’s progress toward achieving goals in the plan of care
 - v. The recommended discharge plan.

Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

Ms. Richardson moved the Board adopt the following Conclusions of Law:

A.R.S. §32-2044(1): “Violating this chapter, Board rules or a written board order.”

A.R.S. §32-2044(4): “Engaging in the performance of substandard care by a physical therapist due to a deliberate or negligent act or failure to act regardless of whether actual injury to the patient is established.”

A.R.S. §32-2044(12): “Failing to adhere to the recognized standards of ethics of the physical therapy profession.”

- i. 11.2 A physical therapist shall not undermine the relationship(s) between his/her patient and other health care providers.

A.R.S. §32-2044(13): “Charging unreasonable or fraudulent fees for services performed or not performed.”

A.R.S. §32-2044(20): “Failing to maintain adequate patient records. For the purposes of this paragraph, “adequate patient records” means legible records that comply with board rules and that contain at a minimum an evaluation of objective findings, a diagnosis, the plan of care, the treatment record, a discharge summary and sufficient information to identify the patient.”

Dr. Miller seconded the motion. Following review and discussion the motion passed. -

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

The Board discussed possible disciplinary action against Mr. Reilly’s license. Following discussion Mr. D’Appollonio moved the Board adopt the following Order:

Mr. Reilly be placed on probation for twelve months with the possibility for early termination.

Mr. Reilly shall complete three (3) hours of continuing education in documentation, three (3) hours in billing, three (3) hours in ethics and six (6) hours of orthopedic clinical rationale. All continuing education must be preapproved by Board staff and completed within six (6) months. CEU’s will not count towards renewal and cannot be completed online.

Following completion of the continuing education courses Mr. Reilly must undergo a minimum of six (6) months of Board approved monitoring with possibility for early termination after three (3) months of successful completion of monitoring with option for the Board to extend if not successfully completed. Monitoring shall consist of 5 randomly selected charts.

Ms. Richardson seconded the motion. Following review and discussion the motion passed by roll call vote.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							

Recused							
Abstained							
Absent			X		X		

6) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

b) Review, Discussion, and Action on Initial Review of Complaint

i) Complaint #16-24; Thomas Spray, PT

Mr. Spray was present and was not represented by legal counsel. Ms. Donahue provided a summary of the case for the Board. Ms. Weitzman, PTA alleges that Mr. Spray did not appropriately supervise and delegate to Ms. Weitzman and failed to notify her of who her supervising physical therapist was going to be when he went on vacation.

Mr. Spray provided an opening statement to the Board and was there to answer any question the Board had for him. The Board reviewed, discussed the investigation, and asked questions of Mr. Spray.

Ms. Richardson moved the Board issue six (6) hours non-disciplinary continuing education in delegation, and supervision. Dr. Miller seconded the motion. Following review and discussion, both Ms. Richardson and Dr. Miller withdrew their first and second motion. Ms. Richardson moved the Board issue three (3) hours non-disciplinary continuing education in delegation and supervision to be completed within six (6). The Board recommended Mr. Spay work with Board Staff to finish up his presentation on supervision. CEU’s will not count towards renewal and cannot be completed online. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

The Board Recessed from 12:37 P.M. to 12:45 P.M.

iii) Complaint #16-33; Gabriel Morgan, PT

Mr. Morgan was present and was not represented by legal counsel. Ms. Donahue provided a summary of the case for the Board. The Board opened complaint following Mr. Morgan’s self-report of DUI charges which occurred on August 21, 2016. Mr. Morgan did notify the Board of the charges within the 10 day requirement.

Mr. Morgan provided an opening statement to the Board and was there to answer any question the Board had for him. The Board reviewed and discussed the investigation, and asked questions of Mr. Morgan.

The Board tabled the case pending the outcome of Mr. Morgan’s DUI criminal court case. Board Staff will collect any and all court documents Mr. Morgan may have regarding his case.

ii) Complaint #16-27; Aubrey Stanley, PTA

Ms. Stanley was not present and was not represented by legal counsel.

Ms. Donahue provided a summary of the case for the Board. The Board opened complaint #16-27 following review of Complaint #15-17; Darren Permenter, PTA. Board alleges that Ms. Stanley engaged in substandard care, inappropriate billing and failed to maintain adequate patient records.

The Board reviewed and discussed the case. Dr. Miller moved the Board move case to informal hearing referencing statutes A.R.S. §32-2044(1), A.R.S. §32-2044(5), A.R.S. §32-2044(13), A.R.S. §32-2044(17), A.R.S. §32-2044(20). Mr. D’Appollonio seconded the motion. Following review and discussion, both Dr. Miller and Mr. D’Appollonio withdrew their first and second motion.

Mr. D’Appollonio moved the Board offer Ms. Stanley a consent agreement to include one (1) year probation. Ms. Stanley shall complete three (3) hours of continuing education in documentation, three (3) hours in billing (can be combined) and six (6) hours of orthopedic treatment. All continuing education must be preapproved by Board staff and completed within six (6) months. CEU’s will not count towards renewal and cannot be completed online. Following completion of the continuing education course Ms. Stanley must undergo minimum of six (6) months of Board approved monitoring with possibility for early termination after three (3) months of successful completion of monitoring with an option for the Board to extend if not successfully completed. Monitoring shall consist of 5 randomly selected charts. If Ms. Stanley does not accept consent agreement the Board will forward case to informal hearing. Ms. Richardson seconded the motion. Following review and discussion the Dr. Miller asked for a friendly amendment to include that Ms. Stanley also be required to take and pass the AZLaw. Mr. D’Appollonio accepted friendly amendment from Dr. Miller and Ms. Richardson seconded the motion. Following review and discussion the motion passed by roll call vote.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

iv) Complaint #16-37; Mary Arendt Bassous, PT

Ms. Arendt Bassous was present and was not represented by legal counsel. Ms. Donahue provided a summary of the case for the Board. The Board opened complaint against Ms. Arendt Bassous for her failure to complete the 2014-2016 continuing education competency requirements. Ms. Arendt Bassous was deficient 7 hours.

The Board reviewed and discussed the case. Ms. Richardson moved the Board offer Ms. Arendt Bassous a consent agreement for voluntary surrender of her license. If Ms. Arendt Bassous does not accept consent agreement the Board will forward case to informal hearing. Dr. Miller seconded the motion. Following review and discussion the motion passed by roll call.

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

6) COMPLAINTS, HEARINGS, INVESTIGATIONS and COMPLIANCE

c) Review, Discussion, and Action on Board Order

i) Request for Reduction in Monitoring

(1) Case #15-14; Lori Francouer, PT

Mona Baskin, Assistant Attorney General recused herself from this case and left the Board table.

Ms. Richardson provided a summary of the case for the Board. Ms. Francouer has completed 6 months of monitoring. The previous 3 reports were provided to the Board for Board review. Ms. Francouer requested the monitoring frequency to be reduced from bi-monthly to monthly. The Board can elect to grant reduction in monitoring or continue with bi-monthly monitoring. The Board review and discussion the case. Dr. Miller moved the Board approve Ms. Francouer's request for reduction in monitoring to once a month. Ms. Richardson seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye		X		X		X	X
Nay	X						
Recused							
Abstained							
Absent			X		X		

At 1:24 P.M. Mona Baskin, Assistant Attorney General returned to the Board table.

7) BOARD BUSINESS AND REPORTS

- a) Executive Director’s Report –Verbal Report/Review of Written Report
 - i) Financial Report- Written Report
 - ii) Review Recent Board Staff Activities –Written Report
 - iii) Review of Current Legislative Activity (2016) – No Report
 - iv) Rule Activity- No Report
 - v) FSBPT- Written Report

Mr. Brown provided verbal summary on the above topics. No action was taken or required.

- b) Review, Discussion and Possible Action on 2017 Board Meeting Schedule

The Board agreed to approve January to June Board Meeting schedule 2017.

- c) Review, Discussion and Possible Action on Executive Director Performance Evaluation.

Ms. Richardson moved the Board enter into Executive Session to review, discussion and possible action on Executive Director Performance Evaluation. Mr. D’Appollonio seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

Executive Session from 1:31 P.M. to 2:05 P.M.

Ms. Richardson moved the Board approve Charles Brown, Executive Director Performance Evaluation. Dr. Miller seconded the motion. Following review and discussion the motion passed.

Vote	Mr. Clinton	Mr. D’Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X		X		X	X
Nay							
Recused							
Abstained							
Absent			X		X		

8) CALL TO THE PUBLIC

Nobody came forward.

9) ADJOURNMENT

Ms. Richardson moved to adjourn the meeting. Mr. Clinton seconded the motion. The motion passed.

Vote	Mr. Clinton	Mr. D'Appollonio	Ms. Hunter	Dr. Miller	Ms. Remec	Ms. Richardson	Ms. Lawrence
Aye	X	X	X	X		X	X
Nay							
Recused							
Abstained							
Absent			X		X	X	X

Meeting adjourned at 2:06 P.M.

Prepared by,
Monica Crowley
Office Manager

Approved by,
Al D'Appollonio, PT, MBA